

See Attachment

(12) 8/27/01
m

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA

DESMOND V. GAYLE,

Plaintiff

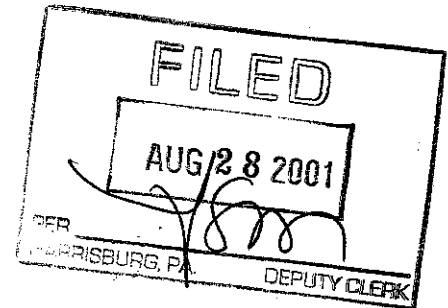
v.

THOMAS HOGAN, et al.,

Defendants

:
:
:
: CIVIL NO. 1:01-CV-1282
:
: (Judge Caldwell)
:
:
:

O R D E R



THE BACKGROUND OF THIS ORDER IS AS FOLLOWS:

On August 7, 2001, this Court denied Gayle's Motion for Appointment of counsel. On August 13, 2001, Gayle filed a letter with the court again requesting the appointment of counsel (doc. 11). This letter will be construed as a second motion for appointment of counsel.

In the court's previous order denying Gayle's initial motion for appointment of counsel, the court set forth and reviewed the various factors under Tabron v. Grace, 6 F.3d 147, 153 (3d Cir. 1993), used when considering a request for the appointment of counsel. One of the Tabron factors addressed was plaintiff's efforts to retain counsel prior to asking the court to appoint one. At that time, Gayle had not identified any individual efforts undertaken by him to secure counsel prior to asking the court to do so for him. Gayle's current motion addresses his unsuccessful

attempts to obtain counsel. Gayle has submitted a letter from a New York attorney declining his request for representation. Gayle also represents that he contacted two Pennsylvania firms regarding representation with similar results.

However, since the entry of the previous order, Gayle continues to demonstrate a reasonable ability to litigate this action pro se. Furthermore, his latest motion fails to assert any new factors or change in circumstances which, in applying Tabron, 6 F.3d at 153-57, would warrant a different result than reached in the Court's previous order.

Consequently, for the reasons set forth herein and in the Court's order of August 7, 2001, Gayle's second motion for appointment of counsel is denied. An appropriate Order is attached.

AND NOW, this 28th day of August, 2001, it is ordered that plaintiff Gayle's letter-motion of August 13, 2001, is construed as a second motion for the appointment of counsel and the motion (doc. 11) is denied.



WILLIAM W. CALDWELL
United States District Judge

UNITED STATES DISTRICT COURT
FOR THE
MIDDLE DISTRICT OF PENNSYLVANIA

* * MAILING CERTIFICATE OF CLERK * *

August 28, 2001

Re: 1:01-cv-01282 Gayle v. Hogan

True and correct copies of the attached were mailed by the clerk
to the following:

Desmond V. Gayle
CTY-YORK
York County Prison
55438
3400 Concord Road
York, PA 17402

Donald L. Reihart, Esq.
Law Offices of Donald L. Reihart
2600 Eastern Blvd.
Suite 204
York, PA 17402

cc:

Judge	(<input checked="" type="checkbox"/>)	(<input checked="" type="checkbox"/>) Pro Se Law Clerk	<i>Taggar</i>
Magistrate Judge	()	() INS	
U.S. Marshal	()	() Jury Clerk	
Probation	()		
U.S. Attorney	()		
Atty. for Deft.	()		
Defendant	()		
Warden	()		
Bureau of Prisons	()		
Ct Reporter	()		
Ctroom Deputy	()		
Orig-Security	()		
Federal Public Defender	()		
Summons Issued	()	with N/C attached to complt. and served by:	
		U.S. Marshal ()	Pltf's Attorney ()
Standard Order 93-5	()		
Order to Show Cause	()	with Petition attached & mailed certified mail	
		to: US Atty Gen ()	PA Atty Gen ()
		DA of County ()	Respondents ()
Bankruptcy Court	()		
Other _____	()		

MARY E. D'ANDREA, Clerk

DATE:

8/28/01

BY:

JSM

Deputy Clerk